

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

UNITED STATES OF AMERICA

v.

EDWIN AMAYA MEJIA ALVARADO,
a/k/a “Duende,”

Defendant.

Case No. 19-cr-10132-IT

JOINT STATUS REPORT

The United States and defendant Edwin Amaya Mejia Alvarado file this joint status report in advance of the status conference scheduled for June 17, 2020. In short, the parties do not believe this matter is ready to be reported up to the District Court at this time. The parties are available, if necessary, to address these issues in further detail at the upcoming status conference.

I. Timing and Status of Discovery

This is a complex case involving allegations of participation in a wide-ranging racketeering conspiracy, including allegations that the racketeering activity involved conspiracy to murder by members of the transnational criminal gang known as MS-13.

In addition to the RICO conspiracy charged in the Indictment, the defendant is a target of an ongoing investigation into additional crime(s), which the government has tried to keep the defendant updated about to the extent possible without compromising the ongoing investigation. As things stand, the defendant faces significant—although uncertain—sentencing exposure. The additional matters under investigation may constitute relevant conduct, even if not charged as additional crimes. These factors make it difficult to determine whether this matter can be resolved short of trial.

A few weeks ago, on May 20, 2020, the defendant filed a status report informing the Court about additional complications caused by the ongoing COVID-19 pandemic, including a significant impact on counsel's ability to meet with her client in person to discuss the allegations at issue.

Defense counsel reports that there has been no material change to the situation in recent weeks. Counsel hopes that the ongoing COVID-19 pandemic will continue to subside and she remains committed to visiting her client in the near future—as the situation allows—to make further progress on discussing discovery and other pretrial matters with the defendant.

The government reports that it is continuing to identify relevant materials for production that may assist the defense in its evaluation of this case, and it is separately continuing to investigate the defendant for uncharged conduct. As to the evidence relating to the pending charges, the government anticipates making an early disclosure of certain witness statements within the next month that may further assist the defense in its evaluation of the case.

Earlier today, the parties conferred and the government made a further witness disclosure to the defense. The government also informed the defense that within the next month, it anticipates seeking a search warrant for the defendant's DNA in connection with the related investigation into uncharged conduct. [This issue, too, has been impacted by the ongoing pandemic. Obtaining a DNA sample of a defendant in custody will require either sending an agent or DNA analyst to the facility (which, at least as of recently, the facility was not allowing), or having the defendant brought in by the U.S. Marshals to the courthouse for a sample taken here, which raises other risks.]

II. Reasons for a Further Continuance

A number of reasons argue strongly in favor of a further continuance in the interests of justice.

First, as stated in other status reports, given the complexity of this case and the nature of the charges, the defense needs additional time for pretrial preparation and to analyze the defendant's sentencing exposure if convicted.

Second, and relatedly, the ongoing COVID-19 pandemic significantly complicates that decision-making process, especially given counsel's recent inability to meet with her in client in person.

Third, the relative youth of the defendant further advises caution and provides an additional basis for a continuance so that the defendant has an adequate opportunity to understand the nature of the charges and the evidence against him, and has an adequate opportunity to make an informed decision on whether to proceed to trial.

Fourth, the government has made the defense aware that the government's investigation into racketeering activity by this defendant continues, which means that additional time is also needed because some of the evidence is not just historical, but newly discovered (and continuing to be discovered) as part of ongoing investigations. The uncertainty of a related ongoing investigation provides a further reason for the defendant to get additional time to make an informed decision on next steps.

For these and other reasons, a continuance is in the interests of the public and in the interest of all parties.

III. The Speedy Trial Act

All time has been excluded through the Status Conference scheduled for June 17, 2020. The parties request that the Court further exclude time and enter an order of

excludable delay from June 17, 2020 through the next Status Conference. See 18 U.S.C. § 3161(h)(7)(B)(i) (requiring consideration of whether the failure to grant a continuance would be likely to result in a miscarriage of justice); 18 U.S.C. § 3161(h)(7)(B)(ii) (requiring consideration of whether the case is unusual or complex due to the number of defendants, nature of the prosecution, or novel questions of fact or law; and whether it is reasonable to expect adequate preparation for pretrial proceedings and trial given the time limits otherwise established by § 3161); and 18 U.S.C. § 3161(h)(7)(B)(iv) (requiring consideration of whether a failure to grant a further continuance would deny counsel for the defendant or the government the reasonable time necessary for effective preparation, taking into account the exercise of due diligence).

CONCLUSION

For the reasons above, the parties request (or expect to request at the upcoming Status Conference) that the Court schedule this matter for a further Status Conference in approximately 60 days.

Respectfully submitted,

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Certificate of Service

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing and paper copies will be sent to those indicated as non-registered participants.

By: /s/ Kunal Pasricha
KUNAL PASRICHA
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